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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,943	11/13/2003	Gary Workman	00290P0021US	9536

32116 7590 03/23/2006

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EXAMINER	
DESAI, ANISH P	

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/712,943	WORKMAN, GARY	
	Examiner	Art Unit	
	Anish Desai	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The applicant's arguments in response to the Office action dated 09/28/05 have been fully considered.

2. All of the art rejections are withdrawn. However, upon further consideration a new ground of rejection is made in view of newly discovered references of Kaufman et al. (US 5,102,710) and Wilhelm Muhm (US 3,295,278).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kaufman et al. (US 5,102,710).

Kaufman teaches a composite decorative panel for use in construction industry (Abstract). The decorative panel of Kaufman is formed of thermoplastic shell with a weatherable skin coating wherein the weatherable skin coating is formed of a polyvinyldine fluoride film, a rigid foam center, and a fire blocking backboard wherein the backboard is formed of a cement panel and it is bonded to the foam (Column 1, lines 12-14, claim 5, Column 3, lines 23-26). Further Kaufman teaches compressive strength testing of the decorative panel (Column 4, lines 45-46). The examiner is equating the weatherable skin coating as the claimed plastic film, the fire blocking

backboard formed of a cement panel as the claimed concreted masonry unit, and rigid foam center as the claimed foam board. Kaufman teaches the compressive strength testing of the decorative panel, which reads on the applicant's test apparatus for strength testing.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hadley et al. (US 3,545,263) in view of Peacock et al., and further in view of Wilhelm Muhm (US 3,295,278)

Hadley discloses a compression-testing machine (see Title). The machine is designed for testing concrete blocks by compression (Column 1, lines 50-53). The machine of Hadley includes a lower platen and an upper platen. A test piece is placed between the said platens (Column 1, lines 53-59).

Hadley is silent as to teaching of a plastic sheet laminated to an expanded polystyrene foam board using an adhesive, the expanded polystyrene foam board engaging the face of the concrete masonry unit, the rigid foam board comprises expanded polystyrene foam board with density of 2 lb/ft^3 and 3 lb/ft^3, the thickness of the foam board to be 0.5 inch, and the thickness of the plastic sheet to be about 0.06

inch. However, Peacock teaches a method and apparatus for supporting concrete testing samples (Abstract). The invention of Peacock relates to concrete sample testing and support means therefor comprising end caps and removable molded elastomeric insert pads for positioning over the ends of cylindrical concrete sample (Column 1, lines 9-12). According to Peacock, the use of the pads allows uniform load distribution during the loading which in turn results in compressive stress results more truly representing the cylinders (Column 2, lines 3-6).

Peacock is silent as to teaching of a rigid foam board comprising an expanded polystyrene foam board, a plastic sheet laminated to the expanded polystyrene foam board with an adhesive, the thickness of the plastic sheet and the polystyrene foam, and the density of the polystyrene foam as claimed in the present invention. However, Wilhelm teaches a laminated load bearing structure wherein the load bearing structure comprises a plastic foam layer laminated with at least one layer of covering or facing (Column 1, lines 29-30) wherein the facing layer or covering are designed to impart desired an necessary resistance to stress so that the structure is load bearing (Column 2, lines 7-10). Note that the applicant is also concerned with providing a system for strength testing of concrete masonry units wherein a plastic sheet laminated to the rigid foam board with the foam board engaging one face of the concrete masonry unit provide even load distribution during testing (specification, page 2). Further, Wilhelm teaches that plastic foams such as polyurethane or phenol-aldehyde can be used, however the polystyrene foam sheet has been found most advantageous to use (Column 2, lines 3-6). With respect claims 3,4, 9,10, 15,16, and 20, although Wilhelm

does not explicitly teach the density of the polystyrene foam, it is known that the polystyrene foams have density of from about 70 kg/m^3 (4.37 lbs/ft^3) as evidenced by Kelch et al. (US 5,695,870, Column 6, lines 27-28). Further although Wilhelm does not explicitly teach the thickness of the plastic foam as claimed in the present invention, however since the thickness is recognized as a result effective variable, it would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the thickness of the plastic foam as claimed in the presently claimed invention, motivated by the desire to optimize the strength of the plastic foam. Additionally, Wilhelm does not explicitly teach the plastic film laminated to the rigid foam board, it is known in the art to laminate a plastic film to the polystyrene foam to enhance the strength of the polystyrene foam as evidenced by Kelch et al. (US 5,695,870, Column 5, lines 47-48 and Column 3, lines 49-52). Although Wilhelm does not teach the thickness of the plastic film as claimed in the present invention, since the thickness is recognized as a result effective variable, it would have been obvious to one having ordinary skill in the art at the time invention was made to choose the thickness of the cover layer of Wilhelm in the claimed thickness range, motivated by the desire to optimize the strength of the plastic foam layer. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the polystyrene foam layer laminated with a plastic film in the invention of Peacock as compressive pads, motivated by the desire to uniformly distribute the load over the concrete cylinder while the cylinder is undergoing compressive loading.

Response to Arguments

5. Applicant's arguments see pages 2-4, filed 12/30/05 have been fully considered and are persuasive.

6. The obviousness type rejection of claims 1-21 over Hadley et al. (US 3,545,263) in view of Peacock et al. (US 4,534,225), and further in view of Long Sr. et al. (US 6,276,104) is withdrawn because Long Sr. et al. does not teach or suggest strength testing of concrete masonry units as claimed in the present invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Desai whose telephone number is 571-272-6467. The examiner can normally be reached on Monday-Friday, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

APD

Hai Vo

HAI VO
PRIMARY EXAMINER